

DECISION



19385 Mr. Ayer
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-200267.3

DATE: September 14, 1981

MATTER OF: Sphere Management, Inc.

DIGEST:

Contracting agency determination of small business' nonresponsibility will not be reviewed by GAO where bidder fails to file for certificate of competency from the Small Business Administration (SBA), since the SBA is the agency specifically authorized by statute to review such decisions.

Sphere Management, Inc., a small business, protests both the Department of the Army's determination that it is nonresponsible under invitation for bids No. DAKF70-80-B-0061 and the Army's referral of the matter to the Small Business Administration (SBA) under the certificate of competency (COC) procedures.

Under the provisions of the Small Business Act, 15 U.S.C. § 637(b)(7) (Supp. III, 1979), and the applicable section of the Defense Acquisition Regulation, § 1-705.4(c) (Defense Acquisition Circular No. 76-24, August 28, 1980), no small business concern may be precluded from award because of nonresponsibility without referral of the matter to the SBA for a final disposition under the COC procedures regardless of the basis for the nonresponsibility finding. The SBA is empowered to certify conclusively to Government procurement officials with respect to all elements of responsibility. Angelo Warehouses Co., B-196780, March 28, 1980, 80-1 CPD 228.

The Army advises that the protester failed to file its COC application within SBA's August 7, 1981, deadline. It appears that the protester chose instead to file, by letter of August 5, 1981, a protest with this Office. We received the protest on August 10, 1981.

We will not undertake a review of a contracting officer's determination of nonresponsibility because

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the SBA is the agency specifically authorized by statute to review such decisions. Fifth Generation Systems, B-199719, September 18, 1980, 80-2 CPD 205.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel